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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-189260

DATE: October 3, 1977

MATTER OF: Systems Engineering Associates Corporation

DIGEST:

Sole-source award for technical services to incumbent contractor is justified where new contractor, in order to perform services adequately, would have to learn technical history previously available only to incumbent and agency cannot afford delay and risk involved in training a new contractor.

Systems Engineering Associates Corporation (SEACOR) protests the Navy's award to American Communications Corporation (ACC) of a sole-source contract for submarine shipboard electronics design engineering feasibility studies under request for proposals (RFP) No. N00024-77-R-7170(S) issued by the Naval Sea Systems Command (NAVSEA) on May 6, 1977.

The specification of the RFP describes the scope of work to be "engineering efforts * * * in support of current and future U.S. Navy submarine new construction, modernization, overhaul, and alteration." The contract is to be performed during the period through March 1980.

The Navy states that approximately 86 percent of the work will consist of efforts to support the TRIDENT submarine Command and Control System (CCS) engineering and integration (E&I) project and that ACC is the only contractor which can perform this work within the established schedule. Although SEACOR does not dispute the sole-source procurement of efforts that are unique to the

B-189260

TRIDENT CCS, it asserts that with respect to the remaining 14 percent of the efforts, which are not TRIDENT CCS unique or TRIDENT time critical, the terms and conditions of the RFP are overly restrictive of competition.

SEACOR contends that the inclusion in the specification of generally competitive tasking areas assertedly "well within the scope of SEACOR's expertise" such as engineering/cost analyses for submarine classes other than TRIDENT, participation in various ship system test and alignment programs for various submarine and submarine class programs, and conducting ship alteration engineering feasibility studies on specified submarine and submarine classes, is unjustified and in contravention of the Armed Services Procurement Regulation (ASPR) § 1-300.1 (1976 ed.) requirement to obtain the maximum practicable competition. SEACOR maintains that the non-TRIDENT work should be broken out from any sole-source award to ACC and that the Navy's failure to do so would effectively preclude any possible competition in these areas for as much as three years.

The Navy reports that the contract is to provide technical and management support to six Technical Branches of the Naval Ship Engineering Center (NAVSEC), an element of NAVSEA responsible for technical direction of engineering tasks and evaluation of the resulting E&I efforts performed by the TRIDENT submarine prime contractor, development of technical requirements for the acquisition of advanced electronic hardware and real-time computer software from industry vendors, and analysis of life-cycle support requirements for these equipments and systems. According to NAVSEA, in order for NAVSEC to perform effectively, it requires the most qualified engineering support available from a firm which "must possess (1) technical capability, (2) comprehensive knowledge of the CCS/E&I program, (3) an understanding of technical issues resulting from both previous and current decisions, and, most important, (4) the demonstrated ability to respond in a timely,

B-189260

accurate and imaginative manner to the plethora of technical and management problems which arise under large, complex programs such as the TRIDENT CCS/E&I effort."

NAVSEA states that the contested work will consist of the application and utilization of the TRIDENT CCS/E&I design approach to ship designs and feasibility studies for related submarine programs, the objective of which is the application of TRIDENT and other state-of-the-art technology to plans for the development of a new attack submarine and for the modernization of the SSN 688 [Los Angeles] class of attack submarines. Although none of these new programs has a concrete development schedule, NAVSEA states that intensive initial planning is underway and NAVSEC is receiving urgent requests for technical evaluations and feasibility studies from high level planners within the Department of Defense, which evaluations and studies apply and build upon Navy-approved TRIDENT submarine designs. In order to respond to these requests, NAVSEC reportedly requires support from a contractor who has "the essential experience in submarine combat systems engineering, unique computer software expertise, and thorough knowledge of the most advanced technological data available, [as well as] a record of reliability for meeting tight schedule deadlines."

In this regard, the sole-source justification dated January 20, 1977, states in pertinent part:

"Effort is a direct follow-on to Contract N00024-76-C-7382 which involves support to six (6) NAVSEC 6170 Technical Branches and PMS 396 Codes. To date, American Communications Corporation (ACC) Personnel have been closely involved in technical investigations of CCS hardware/software system design and integration problems which necessitate NAVSEA/NAVSEC engineering solutions, and have been performing a crucial role in monitoring and evaluating CCS Engineering and Integration efforts being performed by EBDIV/IBM at the CCS Land Based Evaluation Facility. Additionally, ACC personnel are providing vital support to NAVSEA/NAVSEC in the technical management of the CCS

program, specifically involved with program planning, examination of program risk factors, and assisting in implementation of program activities. NAVSEC 6170 considers it imperative that ongoing engineering and technical analyses of CCS design, development and integration problems be continued by ACC personnel; that the experience and mental data base established in technical, program planning and systems engineering areas be retained and utilized for the benefit of the CCS program. NAVSEA/NAVSEC cannot afford the increased cost of a Learning Curve with its associated Schedule Slippage, particularly since a large part of the efforts identified herein involve detailed knowledge of TRIDENT Submarine electronic systems, subsystems and functions, as well as knowledge of program design and engineering history which now influences and drives program implementation decisions."

We have recognized that the determination to procure by means of a package approach rather than by separate procurements for divisible portions of a total requirement is primarily a matter within the discretion of the procuring activity and will be upheld so long as some reasonable basis for the determination exists. Control Data Corporation, 55 Comp. Gen. 1019, 1024 (1976), 76-1 CPD 276; Capital Recording Company, B-188015, B-188152, July 7, 1977, 77-2 CPD 10; Memorex Corporation, B-187497, March 14, 1977, 77-1 CPD 187. Moreover, as the Navy points out, we have not objected to non-competitive awards of contracts where technical risks and the potential for resulting delivery delays were compelling, Control Data Corporation, supra; California Microwave, Inc., 54 Comp. Gen. 231 (1974), 74-2 CPD 181; Hughes Aircraft Company, 53 Comp. Gen. 670 (1974), 74-1 CPD 137, especially where the sole-source procurement is being conducted to satisfy urgent needs. See Applied Devices Corporation, B-187902, May 24, 1977, 77-1 CPD 362.


In this case, the sole-source procurement is predicated on NAVSEA's determinations that ACC is the only contractor with the current capability to provide NAVSEC with the specified contractor support within the time required and that the cost and time which would be required to bring a

B-189260

new contractor up to the level of technical competence ACC has achieved during its 7 years' experience in the TRIDENT CCS/E&I effort renders competitive procurement unfeasible.

As indicated above, SEACOR does not question the sole-source determination with regard to the TRIDENT portion of the contract work. Moreover, based on the record we cannot object to the sole-source determination for the other, non-TRIDENT, work since it is reported that the services in question are currently and urgently needed. The record shows that the Navy cannot afford the delay and risk involved in training a new contractor to perform these services.

Accordingly, the protest is denied.


Acting Comptroller General
of the United States